

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

JOHNNY LEON PACK, II,

Plaintiff,

v.

CIVIL ACTION NO. 5:04-cv-01154

THOMAS MCBRIDE, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER


This action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the court dismiss the plaintiff's complaint pursuant to 28 U.S.C. § 1915A, deny the plaintiff's motion for preliminary injunction, deny the plaintiff's application to proceed *in forma pauperis*, and remove this matter from the court's docket.

Neither party has filed objections to the Magistrate Judge's findings and recommendation.

Accordingly, the court accepts and incorporates herein the findings and recommendation of the Magistrate Judge. The court **DISMISSES** the plaintiff's complaint [Docket 1] pursuant to 28 U.S.C. § 1915A, **DENIES** the plaintiff's motion for preliminary injunction [Docket 2], **DENIES** the plaintiff's application to proceed *in forma pauperis* [Docket 3], and **DISMISSES** that matter from the court's docket.

The court **DIRECTS** the Clerk to send a certified copy of this Memorandum Opinion and Order to Magistrate Judge VanDervort, counsel of record, and any unrepresented party.

ENTER: September 13, 2005



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE